

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**SOUTHWEST FLORIDA RETIREMENT
CENTER INC. D/B/A VILLAGE ON THE ISLE**

and

**Cases 12-CA-196935
12-CA-198395**

DAVID L. MILLER, JR.

ORDER¹

The Employer's Petition to Revoke subpoena duces tecum B-1-X96L1L is denied as untimely. Section 11(1) of the Act and Sections 102.31(b) and 102.2 of the Board's Rules and Regulations require that a petition to revoke an investigative subpoena must be filed within 5 days after the date of service of the subpoena. The subpoena here was served on July 3, 2017. Thus, the petition, which was filed on July 12, 2017, is untimely.

In addition, even assuming that the petition was timely filed, it is lacking in merit. The subpoena seeks information relevant to the matters under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations.² Further, the Employer has failed to establish any other legal basis for revoking the subpoena. See

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² In considering the petition to revoke, we have evaluated the subpoena in light of the Region's statement that it is willing to clarify the scope of the subpoena so that paragraph 4, which requested "[a]ll policies, handbooks and/or procedures that were in effect at the Employer's facility, on or about April 12, 2017, at the time of the Charging Party's discharge" is limited to production of policies, handbooks, or procedures that "address employees' working conditions and requirements or in any way address or document the reasons relied upon by the Employer for the Charging Party's discharge or for its discipline and discharges of other employees for reasons that are the same or similar to the Charging Party."

generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).³

Dated, Washington, D.C., April 5, 2018.

MARVIN E. KAPLAN,	CHAIRMAN
LAUREN McFERRAN,	MEMBER
WILLIAM J. EMANUEL,	MEMBER

³ To the extent that the Employer has provided some of the requested material, it is not required to produce that information again, provided that the Employer accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.